



**KAMALA D. HARRIS
DISTRICT ATTORNEY
CITY AND COUNTY OF SAN FRANCISCO**

INSTRUCTIONS TO CUSTODIAN OF RECORDS

Dear: Custodian of Records

In order to avoid personal appearance to comply with the Subpoena Duces Tecum you have received in this matter, California Evidence Code section 1560 must be strictly followed.

In order to comply with the Section 1560, the following steps must be followed within five days after the receipt of this Subpoena.

1. Make a true and correct copy of all records described in the Subpoena Duces Tecum. A photocopy is sufficient.
2. Complete and sign the enclosed Declaration. The enclosed Declaration should be completely filled out, with a checkmark for either 3a or 3b. Sign and date the declaration and enclose it with the sealed records. It would be helpful to enclose a brief explanation of the records.
3. Put the Declaration and all copies of the records in a sealed envelope.
4. Write the following information on the outside of the sealed envelope:
 - a. Title of Action:
 - b. Court Number:
 - c. Date of Subpoena:
 - d. The name of the person signing the Declaration.
5. Enclose the sealed envelope in an outer envelope and seal the outer envelope.
6. Mail/deliver the package to: **Clerk of the Superior Court
Hall of Justice
850 Bryant Street
San Francisco, CA 94103**
7. To comply with Section 1560 of the California Evidence Code, you must mail or deliver the above package within **FIVE DAYS** or receipt of the subpoena. If you do not comply with this requirement, you must appear in court on the date and time indicated on the subpoena and bring the records with you.
8. If there is an Waiver by the Patient, please send a copy to the District Attorney's Office, Hall of Justice, 850 Bryant Street, #322, SF, CA 94103.

Your cooperation is appreciated. If you have any questions, please call the undersigned Assistant District Attorney immediately.

Sincerely,

GEORGE GASCON
DISTRICT ATTORNEY

BRIAN J. BUCKELEW
Assistant District Attorney
(415) 553-1383

SUBPOENA

GEORGE GASCON District Attorney BRIAN J. BUCKELEW Assistant District Attorney 850 Bryant Street San Francisco, CA 94103 (415) 553-1383 Attorneys for the People of the State of California	FOR COURT USE ONLY
SUPERIOR COURT OF THE STATE OF CALIFORNIA CITY AND COUNTY OF SAN FRANCISCO 850 Bryant Street #322 San Francisco, CA 94103	

THE PEOPLE OF THE STATE OF CALIFORNIA vs. ALAN MCCAHL

CRIMINAL SUBPOENA DUCES TECUM	CASE NUMBER 12011587
-------------------------------	-------------------------

THE PEOPLE OF THE STATE OF CALIFORNIA, TO:

Metropolitan Transportation Commission
Attn: Privacy Officer
101 Eighth Street, Oakland, CA 94607

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action as follows UNLESS you make a special agreement with the person named in item 3:

a. Date: 5/21/12	Time: 9:00 A.M.	Dept: 12
b. Address: 850 Bryant Street, San Francisco, CA 94103		

PLEASE CALL THE ASSISTANT DISTRICT ATTORNEY TO CONFIRM APPEARANCE (415) 553-1383

2. and you are:
- a. ☐ ordered to appear in person
- b. ☒ not required to appear in person if you produce the records described in the accompany affidavit in compliance with Evidence Code sections 1560, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose your original declaration with the records. Seal them. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and date, time, and place from item 1 (the above). (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party shown at top of this form.
- c. ☐ ordered to appear in person and to produce the records described in the accompanied affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized pursuant to subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena.
- d. ☐ ordered to make the original business records described in the accompanying affidavit available for inspection at your business address by the attorney's representative and to permit copying at your business address under reasonable conditions during normal business hours.
3. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR. PLEASE CALL BEFORE YOU COME TO COURT:

BRIAN J. BUCKELEW, Assistant District Attorney Telephone number: 553-1383

Witness Fees: You may be entitled witness fees, mileage, or both, in the discretion of the court. Contact the person named in item 3 after your appearance.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED BY A FINE, IMPRISONMENT, OR BOTH. A WARRANT MAY ISSUE FOR YOUR ARREST IF YOU FAIL TO APPEAR.

DATE: 5/7/2012


BRIAN J. BUCKELEW, Assistant District Attorney

DECLARATION FOR SUBPOENA DUCES TECUM

I, Brian Buckelew, an Assistant District Attorney for the City and County of San Francisco, declares, upon information and belief, that the witness whose name and address are described in the foregoing subpoena has the following articles or records in his possession or control:

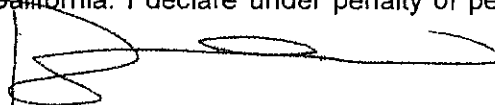
The following information for Clippercard No. [REDACTED]

- o Sign up information for this card, including but not limited to name, address, phone number, date of activation, and billing and payment information.
- o Information showing all usage/trip/fare information on the card for the date range of April 29, 2012 through May 1, 2012.

and that there is good cause for producing the records or articles before the Court. The records or articles described are relevant and material to the trial of this case for the following reasons:

THE DEFENDANT AND TWO OTHER CO-DEFENDANTS ROBBED A BUSINESS AND KIDNAPPED SEVERAL OF ITS EMPLOYEES IN SAN FRANCISCO ON APRIL 30, 2012. THE DEFENDANTS ARE GANG MEMBERS AND ROBBED THE BUSINESS WITH A HANDGUN. ONE OF THE DEFENDANTS IS BELIEVED TO HAVE USED HIS CLIPPERCARD TO ESCAPE FROM THE POLICE ON APRIL 30, 2012. DOCUMENTS AND INFORMATION RELATED TO THIS CLIPPERCARD TRANSACTION ARE RELEVANT TO THE INVESTIGATION AND PROSECUTION OF THE CASE.

Executed on 5/7/2012, at San Francisco, California. I declare under penalty of perjury that the foregoing is true and correct.



BRIAN J. BUCKELEW

PROOF OF SERVICE OF SUBPOENA DUCES TECUM

I served this subpoena duces tecum and supporting declaration by delivering a copy personally to the person served as follows:

- a. Person served (name):
- b. Address where served:
- c. Date of service:
- d. Time of service:

Executed on _____ at San Francisco, California. I declare under penalty of perjury that the foregoing is true and correct.

Signature

Title

State of California- City of San Francisco
SEARCH WARRANT AND AFFIDAVIT
(AFFIDAVIT)

I, **Sergeant John Burke #2240**, swear under oath that the facts expressed by me in the attached and incorporated in the **Statement of Probable Cause**, are true and that based there on he has probable cause to believe and does believe that the person(s), property, and/or thing(s) described below is/are lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is/are now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.


(Signature of Affiant)

HOBBS SEALING REQUEST: YES (XX) NO ()

NIGHT SERVICE REQUESTED: YES () NO (XX)

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER OR PEACE OFFICER IN THE CITY AND COUNTY OF **SAN FRANCISCO, CA**: proof by affidavit having been made before me by **Sergeant John Burke #2240** that there is probable cause to believe that the property, person(s), and/or things described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X" (s) in that it:

- ___ was stolen or embezzled
- ___ was used as the means of committing a felony
- ___ is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery.
- XXX tends to show that a felony has been committed or that a particular person has committed a felony.
- ___ tends to show that sexual exploitation of a child, in violation of P.C. section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18, in violation of P.C. section 311.11 has occurred or is occurring.
- ___ There is a warrant to arrest a person.

YOU ARE THEREFORE COMMANDED TO SEARCH:

Clipper Card Account with that has Clipper Card with serial number of  assigned to it.

FOR THE FOLLOWING PROPERTY; PERSON(S); AND/OR THING(S):

Any and all account information including: All Credit cards, Debit cards, Gift Cards or any other traceable financial method that was used to purchase or add fare to this clipper card account at any time, and any and all dates and exact times and exact locations where this clipper card was used to purchase fare, transportation, any other service, or item.

AND IN THE CASE OF PROPERTY, INFORMATION, AND/OR THINGS, TO SEIZE THEM IF

FOUND and bring it/them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Incorporated **Statement of Probable Cause** was sworn to as true and subscribed before me this 16 day of MAY, 2012 at 3:41 PM. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.


Honorable Judge

Judge of the Superior Court # ___, City and County of San Francisco, CA.

HOBBS SEALING REQUEST: YES (X) NO ()

NIGHT SEARCH APPROVED YES () NO (X)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): CHARLES GEERHART, ESQ. PAOLI & GEERHART LLP 150 POST STREET SUITE 600 SAN FRANCISCO, CA 94108 TELEPHONE NO.: 415/498-2101 FAX NO.: 415/498-2104 E-MAIL ADDRESS: chuck@paoligeerhart.com ATTORNEY FOR (Name): PLAINTIFF	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 MCALLISTER STREET, ROOM 103 MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102-4514 BRANCH NAME: UNLIMITED CIVIL JURISDICTION	
PLAINTIFF/ PETITIONER: [REDACTED] DEFENDANT/ RESPONDENT: CITY & COUNTY OF SAN FRANCISCO, ET AL.	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: CGC12521463

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
 Custodian of Records For: **METROPOLITAN TRANSPORTATION COMMISSION-ATTN: CINDY SIEGAL, ESQ.**
101 8TH STREET OAKLAND, CA 94607 **510/817-5713**

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): Quest Discovery Services	PH: (408) 441-7000 FX: (408) 441-7070
On (date): 09/12/12	At (time): 9:30 A.M.
Location (address): 981 Ridder Park Drive San Jose, CA 95131	

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. ☒ by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. ☐ by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. ☐ by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): **RE: PLEASE SEE DESCRIPTION OF RECORDS**
- ☒ Continued on Attachment 3.
4. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: **08/23/12**

CHARLES GEERHART, ESQ.

(TYPE OR PRINT NAME)

/s/ CHARLES GEERHART, ESQ.

(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney For PLAINTIFF

(TITLE)

(Proof of service on reverse)

Page 1 of 2

ATTACHMENT "A" TO SUBPOENA OF MTC

 v. City/County of San Francisco, *SF Sup. Ct. Civil No. 521463*

Writings requested:

1. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the use of 's Clipper card number on November 30, 2011, including but not limited to records of which transportation line(s) he was using and the times of use.

Definition of WRITING: CA Evidence Code sec. 250 states: "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

2. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the use of 's Clipper card number from November 1 to 30, 2011.
3. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the use of 's Clipper card number on the San Francisco Municipal Railway "M" line on November 30, 2011.
4. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the use of 's Clipper card number on November 30, 2011, specifically including records showing which type(s) of public transportation he was using at the time he used his Clipper card.
5. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the use by of any Clipper card, Fastpass or other transportation account from November 1 to 30, 2011.
6. All WRITINGS (as defined in Evidence Code sec. 250) constituting, referring or relating to the amounts of available funds on 's Clipper card number from November 1 to 30, 2011.

I am employed in the county of SANTA CLARA, my business address is 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, I am over the age of eighteen (18), and am not a party to the within action(s). I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence described below will be deposited with the United States Postal Service today in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing affidavit. I served the within copy: DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS on the below listed entities in said actions by placing said documents in a sealed envelope with postage fully prepaid and addressed as follows:


CITY ATTORNEY'S OFFICE - CCSF
1390 MARKET STREET
7TH FLOOR
SAN FRANCISCO, CA 94102-5408
ATTN: DAVID AMMONS, ESQ.
Name: N

and that they were deposited on 08/23/12 for deposit in the United States Postal Service and that the envelope was sealed and placed for collection and mailing that date at Quest Discovery Services, 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, following ordinary business practices.

DATED: 08/23/12 AT SAN JOSE, CALIFORNIA

I Declare under penalty of perjury that the foregoing is true and correct.

***This form was printed for
all subpoenas in this series***


signature

READ, SIGN, DATE, ATTACH TO YOUR RECORDS, AND SUBMIT TO DEPOSITION OFFICER: **Quest Discovery Services**
981 Ridder Park Drive
San Jose, CA 95131
(408) 441-7000 or (800) 800-8800

Title of Case: **[REDACTED] VS. CITY & COUNTY OF SAN FRANCISCO, ET AL.**
 Attorney for PLAINTIFF: **PAOLI & GEERHART LLP**

DATE OF DEPOSITION: **Wednesday September 12, 2012**
 RECORDS PERTAINING TO: **PLEASE SEE DESCRIPTION OF RECORDS**

I, THE UNDERSIGNED, BEING THE DULY AUTHORIZED CUSTODIAN OF THE RECORDS AND HAVING THE AUTHORITY TO CERTIFY THE RECORDS DECLARE THE FOLLOWING: THE ATTACHED ARE THE RECORDS OF METROPOLITAN TRANSPORTATION AND THAT THESE RECORDS ARE KEPT IN THE REGULAR COURSE OF BUSINESS AND SUCH BUSINESS IS A TYPE OF BUSINESS IN WHICH IT IS CUSTOMARY TO KEEP SUCH RECORDS; THE RECORDS WERE PREPARED BY PERSONNEL OF THE BUSINESS WITH ACTUAL KNOWLEDGE OF THE MATTERS STATED IN THE RECORDS AND THAT THE ENTRIES CONTAINED IN THE ATTACHED RECORDS WERE MADE AT OR NEAR THE TIME OF THE ACTS, CONDITIONS OR EVENTS DESCRIBED.

TRUE COPIES

- ☐ Pursuant to Evidence Code Section 1560(b) the attached copy is a true, legible and durable copy of the records described in the Subpoena.

ORIGINAL RECORDS

- ☐ Pursuant to Evidence Code Section 1560(e) the original records described in the Subpoena were delivered to the attorney or the attorney's representative for copying at the witness' place of business.

CERTIFICATION OF NO RECORDS

- ☐ That a thorough search of our files revealed no documents, records or other materials called for in the Subpoena and that no such records exist with the information provided. (Please give a detailed explanation.) _____

- ☐ Requested records existed at one time but have since been purged.

- ☐ Records do not exist for the time frame specified.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNATURE _____

PRINTED NAME _____

TITLE _____ PHONE # _____

Executed on _____ at _____

IN
 REPLY METROPOLITAN TRANSPORTATION
 PLEASE COMMISSION-ATTN: CINDY SIEGAL, ESQ.
 REFER 101 8TH STREET
 TO OAKLAND, CA 94607

AFFIDAVIT OF PROFESSIONAL PHOTOCOPIER
SECTION 22462 of Business and Professions Code.

I solemnly affirm that I am the attorney's representative and that I made true copies of all the original records delivered to me by the Custodian of Records of the within named location, and these records will be distributed to the authorized persons or entities.

Executed on _____

At _____

Signature _____



S J S 2 1 4 7 5 4 \$ M S

AFFIDAVIT

Attachment 3

File #: **SJS214754**

METROPOLITAN TRANSPORTATION COMMISSION-ATTN: CINDY SIEGAL, ESQ.

Pertaining To: **PLEASE SEE DESCRIPTION OF RECORDS**

(PLEASE SEE ATTACHMENT A)